

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

FREEDOM FROM RELIGION
FOUNDATION, INC.; ANNE NICOL
GAYLOR; ANNIE LAURIE GAYLOR;
PAUL GAYLOR; DAN BARKER;
PHYLLIS ROSE, and JILL DEAN,

Plaintiffs,

v.

Case No: 08-CV-588

PRESIDENT BARACK OBAMA; WHITE HOUSE
PRESS SECRETARY ROBERT GIBBS; WISCONSIN
GOVERNOR JIM DOYLE; and SHIRLEY DOBSON,
CHAIRMAN OF THE NATIONAL
DAY OF PRAYER TASK FORCE,

Defendants.

AFFIDAVIT OF RICHARD L. BOLTON

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

RICHARD L. BOLTON, being first duly sworn, on oath deposes and says as follows:

1. I am one of the attorneys representing the plaintiffs in the above captioned matter.

2. I make this affidavit in opposition to the defendants' Motion for Summary

Judgment.

3. Exhibit 2 is a true and correct copy of the deposition transcript of Shirley Dobson, represented by page 1. The deposition was conducted on November 10, 2009, and only a rough transcript is available at this time. The official transcript will be filed with the court upon receipt.

4. Attached to this affidavit as Exhibit 3 to this affidavit are true and correct copies of National Day of Prayer Proclamations issued by state governors in 2009, including proclamations from the governors of Arkansas, Florida, Iowa, Idaho, Indiana, Kentucky, Louisiana, Massachusetts, Mississippi, Nebraska, New Mexico, South Dakota, Texas, Utah, Virginia, Wyoming, which all include reference to the NDP Task Force annual theme and supporting scripture.

5. Attached to this affidavit as Exhibit 4 are true and correct copies of NDP proclamations from 2008 by state governors, including proclamations by the governors of Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, New Jersey, Utah, Virginia, and Wyoming, which proclamations include the NDP Task Force annual theme and supporting scripture.

6. Attached to this affidavit as Exhibit 5 are NDP prayer proclamations by state governors in 2007, including proclamations by the governors of Colorado, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Nebraska, New Jersey, Utah, Virginia, and Wyoming which include the NDP Task Force annual theme and supporting scripture.

7. Attached to this affidavit as Exhibit 6 are true and correct copies of NDP prayer proclamations from 2006 by state governors, including the governors of Colorado, Florida, Idaho, Illinois, Indiana, Louisiana, Nebraska, Utah, Wisconsin, Wyoming, and Arkansas, which proclamations include the NDP Task Force annual theme and supporting scripture.

8. Attached to this affidavit as Exhibit 7 are true and correct copies of NDP prayer proclamations from 2005 by state governors, including the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Missouri, Nebraska, North Carolina,

Texas, Utah, Virginia, and Wisconsin, which proclamations include the NDP Task Force annual theme and scriptural reference.

9. Attached to this affidavit as Exhibit 8 are true and correct copies of NDP prayer proclamations by state governors in 2004, including the governors of Arkansas, Colorado, Florida, Idaho, Illinois, Louisiana, Massachusetts, Missouri, Nebraska, New York, North Carolina, Texas, Virginia, Wisconsin and Wyoming, which proclamations include the NDP Task Force annual theme and scriptural reference.

10. Attached to this affidavit as Exhibit 9 are true and correct copies of proclamations by the Mayor of the City of Richmond, Virginia, as examples of local NDP proclamations that also include the NDP Task Force annual theme and supporting scripture.

11. Attached to this affidavit as Exhibit 10 are true and correct copies of Presidential NDP proclamations including the proclamations by President Bush in 2008 and 2001 that include the NDP Task Force annual theme and supporting scriptural reference. Other presidential proclamations included as examples routinely include highlighted exhortations to pray.

12. Attached to this affidavit as Exhibit 11 are true and correct copies of the annual NDP proclamations by Wisconsin Governor James Doyle for 2004-2009, which include the NDP Task Force annual theme and/or scriptural reference.

13. Attached to this affidavit as Exhibit 12 are true and correct copies of the 2008 and 2009 Presidential NDP Proclamations, as released and distributed by the Office of the Press Secretary for Presidents Bush and Obama.

14. Attached to this affidavit as Exhibit 13 is a true and correct copy of a letter by Shirley Dobson to President Obama stating that the official presidential proclamation is integral to the yearly national observance in public venues and state houses throughout the country.

15. Attached to this affidavit as Exhibit 14 is a true and correct copy of the February 2006 letter by Shirley Dobson to President Bush noting the President's crucial role in calling Americans to prayer.

16. Attached to this affidavit as Exhibit 15 are true and correct copies of Shirley Dobson's letters to President Bush in March of 2007 and 2008 with draft Presidential Proclamations.

17. Attached to this affidavit as Exhibit 16 is a true and correct copy of the form letter by Shirley Dobson to NDP Task Force state coordinators regarding the 2008 observance and emphasizing that it is especially vital to enlist the support and affirmation of our country's leaders, including proclamations by state governors.

18. Attached to this affidavit as Exhibit 17 is a true and correct copy of a January 2009 letter by Shirley Dobson to NDP Task Force state coordinators requesting help in obtaining written proclamations from governors and active participation in observances, most appropriately on the steps of the Capital buildings.

19. Attached to this affidavit as Exhibit 18 is a true and correct copy of Mrs. Dobson's form letter in 2006 to NDP Task Force state coordinators requesting that proclamations from governors be obtained, with active participation in local prayer gatherings, ideally on the steps of the state Capital buildings.

20. Attached to this affidavit as Exhibit 19 is a true and correct copy of a January 2007 letter by Shirley Dobson to NDP Task Force state coordinators stating that it is critical to garner support of national leaders, including by obtaining written proclamations from governors.

21. Attached to this affidavit as Exhibit 20 is a true and correct copy of a January 2004 Letter by Mrs. Dobson to NDP Task Force state coordinators requesting signed proclamations, by governors and participation in local prayer gatherings, ideally on the steps of Capital buildings.

22. Attached to this affidavit as Exhibit 21 is a true and correct copy of form letters sent by NDP Task Force to each state governor in 2009 requesting NDP proclamation.

23. Attached to this affidavit as Exhibit 22 is a true and correct copy of form letters sent by NDP Task Force to each state governor in 2008 requesting NDP proclamation.

24. Attached to this affidavit as Exhibit 23 is a true and correct copy of Mrs. Dobson's letter in 2006 to state governors requesting NDP proclamations and requesting each governor's support to further efforts to call the nation to prayer, while acknowledging the Creator.

25. Attached to this affidavit as Exhibit 24 are true and correct copies of Mrs. Dobson's form letter to each governor in 2005 and 2006 requesting NDP proclamation.

26. Attached to this affidavit as Exhibit 25 are true and correct copies of letters by Mrs. Dobson to federal officials requesting participation in Cannon Office Building NDP Observance.

27. Attached to this affidavit as Exhibit 26 are true and correct copies of a Letter by Mrs. Dobson to federal officials participating in the 2008 Cannon Office Building NDP Observance.

28. Attached to this affidavit is Exhibit 27 is a true and correct copy of March 2008 Letter by Shirley Dobson to Condoleezza Rice inviting her to represent the Executive Branch at Capital

Hill prayer observance and requesting brief description of the significant role prayer has played in Ms. Rice's personal and professional life.

29. Attached to this affidavit as Exhibit 28 is a true and correct copy of February 2007 Letter by Shirley Dobson to Secretary Jim Nicholson inviting him to represent the Executive Branch at NDP Task Force observance at Cannon Office Building and requesting that Secretary Nicolson speak about the importance of prayer in his personal and professional life.

30. Attached to this affidavit as Exhibit 29 is a true and correct copy of February 2005 Letter by Mrs. Dobson to South Dakota Governor requesting that he issue a NDP proclamation and noting that the National Day of Prayer Task Force receives official statements of support from the President of the United States, as well as governors of the fifty states. Mrs. Dobson further requests that the Governor's proclamation urge the people of South Dakota to assemble in order to pray.

31. Attached to this affidavit as Exhibit 30 is a true and correct copy of February 2005 Letter by Shirley Dobson to President Bush with purposed draft of Presidential Proclamation, and noting that for many Americans, the Presidential Proclamation is an important symbol of affirmation of the National Day of Prayer observance.

32. Attached to this affidavit as Exhibit 31 is a true and correct copy of March 2005 Letters by Shirley Dobson to Secretary Michael Johanns and Representative Tom DeLay inviting participation at Cannon Office Building.

33. Attached to this affidavit as Exhibit 32 is a true and correct copy of 2007 form Letter by Shirley Dobson to governors requesting that they lend support in the form of a public proclamation declaring a National Day of Prayer.

34. Attached to this affidavit as Exhibit 33 is a true and correct copy of October 2004

Letter by Shirley Dobson to Senator Bill Frist requesting him to represent the Legislative Branch at 2005 Cannon Office Building observance, while noting that the National Day of Prayer is a celebrated memorial to our nation's Christian heritage.

35. Attached to this affidavit as Exhibit 34 is a true and correct copy of December 2004 Letter by Shirley Dobson to Senator Rick Santorum requesting him to represent the Legislative Branch at 2005 Cannon House Building observance and further requesting the Senator to convey the prayer needs of the Legislative Branch as well as the role of prayer in his personal and professional life.

36. Attached to this affidavit as Exhibit 35 is a true and correct copy of February 2004 Letter by Shirley Dobson to Representative Charles Stenholm regarding his participation in 2004 Cannon Office Building observance by NDP Task Force. Mrs. Dobson also notes that "foundational to our country has been the understanding that God is the Source of our freedom."

37. Attached to this affidavit as Exhibit 36 is a true and correct copy of May 2006 Letter by Mrs. Dobson to Chaplain Barry Black of the United States Senate thanking his participation in 2006 Cannon Office Building observance and noting that Mrs. Dobson is overwhelmed by the tremendous outpouring of prayer and repentance that encompassed the Nation as hands joined together to cry out to God and hearts were changed and hope was restored.

38. Attached to this affidavit as Exhibit 37 is a true and correct copy of February 2004 Letter by Mrs. Dobson to Secretary Roderick Paige regarding his participation in 2004 Cannon Office Building prayer observance, while noting that the Capital Hill observance is symbolic of the celebrations taking place throughout the land. Mrs. Dobson hopes that the NDP Task Force

scriptural message will be a catalyst to draw Americans closer to God as they look to him for guidance with their personal concerns.

39. Attached to this affidavit as Exhibit 38 is a true and correct copy of April 2006 Letter by Shirley Dobson to Secretary Elaine Chao regarding her participation in 2006 Cannon Office Building observance and noting that NDP Task Force scriptural support is intended to draw Americans closer to God for guidance.

40. Attached to this affidavit as Exhibit 39 is a true and correct copy of a draft Letter of Thanks by Shirley Dobson to Congressmen who attended the 2005 Cannon Office Building observance, and whose commitment to praying for the United States is said to set an inspiring example for fellow citizens.

41. Attached to this affidavit as Exhibit 40 are true and correct copies of Letters from President Bush to Shirley Dobson thanking her for her commitment to prayer.

42. Attached to this affidavit as Exhibit 41 are true and correct copies of National Day of Prayer Task Force programs for Cannon Caucus Room observances for 2004-2009.

43. Attached to this affidavit as Exhibit 42 are true and correct copies of posters for 2009 NDP Cannon Office Building observance by NDP Task Force.

44. Attached to this affidavit as Exhibit 43 is a true and correct copy of NDP Task Force list of Executive Branch Representatives for 1999-2008 at Cannon Office Building NDP observances.

45. Attached to this affidavit as Exhibit 44 is a true and correct copy of a page from the NDP Task Force website describing its mission, values and statement of Judeo-Christian orientation.

46. Attached to this affidavit as Exhibit 45 is a true and correct copy of a page from the

NDP Task Force website describing “What makes prayer work.”

47. Attached to this affidavit as Exhibit 46 is a true and correct copy of a page from the NDP Task Force website explaining “Why we pray.”

48. Attached to this affidavit as Exhibit 47 is a true and correct copy of a page from the NDP Task Force website explaining “What is prayer and why people should pray.”

49. Attached to this affidavit as Exhibit 48 is a true and correct copy of materials from the NDP Task Force regarding coordinator applications and the limitation to Judeo-Christian believers.

50. Attached to this affidavit as Exhibit 49 is a true and correct copy of a page from the NDP Task Force website describing the magnitude of the 2008 National Day of Prayer celebration and identifying public official participation.

51. Attached to this affidavit as Exhibit 60 is a true and correct copy of a page from the National Prayer Committee website noting the involvement of the Prayer Committee and NDP Task Force Chairman in obtaining legislation in 1988 to designate the first Thursday in May of each year as a National Day of Prayer.

52. Attached to this affidavit as Exhibit 64 are true and correct copies of news articles reporting the pressure put on New York Governor Eliott Spitzer in 2007 to issue a NDP Proclamation.

53. Attached to this affidavit as Exhibit 65 is a true and correct copy of a news article describing the pressure put on Minnesota Governor Jesse Ventura to issue a NDP Proclamation in 1999.

54. Attached to this affidavit as Exhibit 96 is a true and correct copy of a Report by the North Carolina Family Policy Council, noting that President Obama announced prior to the National Day of Prayer that he would release a Presidential Proclamation.

55. Attached to this affidavit as Exhibit 61 and 93 are true and correct copies of news reports from April 2008 announcing that all fifty governors issued National Day of Prayer Proclamations.

56. Attached to this affidavit as Exhibit 54 are true and correct copies of articles describing the magnitude of the 2008 NDP celebrations.

57. Attached to this affidavit as Exhibit 58 is a true and correct copy of a UPI report dated January 29, 1983, noting that President Reagan declared a National Day of Prayer on May 5, in order to bring renewed respect for God.

58. Attached to this affidavit as Exhibit 51 is a true and correct copy of a page from a National Prayer Committee website noting its purpose to provide leadership to the National Prayer Movement.

59. Attached to this affidavit as Exhibits 94-95 are true and correct copies of an Alliance Defense Fund effort to raise funds based upon the challenge by FFRF to the National Day of Prayer.

60. Attached to this affidavit as Exhibit 52 is a true and correct copy of a page from the National Day of Prayer Task Force website soliciting funds in order to communicate the need for personal repentance and prayer to every family and to mobilize American believers to prayer.

61. Attached to this affidavit as Exhibits 66-92 are true and correct copies of published reports indicating the divisiveness of recent National Day of Prayer Declarations and Observances.

62. Attached to this affidavit as Exhibit 56 is a true and correct copy of an encyclopedia description of the National Day of Prayer as “a day designated by the United States Congress as a day when people are asked to come together and pray, especially for their country.”

63. Attached to this affidavit as Exhibit 55 is a true and correct copy of a research report from Harvard University describing the National Day of Prayer, including the involvement of Reverend Billy Graham in the passage of 1952 of legislation mandating a National Day of Prayer.

64. Attached to this affidavit as Exhibit 1 is a true and correct copy of Plaintiffs' Interrogatory Answers.

65. Attached to this affidavit as Exhibit 98 are true and correct copies of Letters written by FFRF to state governors in 2005 requesting issuance of secular proclamations to balance NDP proclamations.

66. Attached to this affidavit as Exhibit 99 is a true and correct copy of FFRF's report on request to governors to balance prayer proclamations by issuing freethought proclamations.

67. Attached to this affidavit as Exhibits 100-102 are true and correct copies of media coverage, radio and podcast, and news release archives by FFRF demonstrating its active involvement in opposing the establishment of religion by government officials.

68. Attached to this affidavit as Exhibit 103 is true and correct copy of and article describing FFRF's objection to Sheriff-sponsored prayer breakfast in Burnett County in May 2008, held in conjunction with the National Day of Prayer.

69. Attached to this affidavit as Exhibit 115 are true and correct copies of exemplar media coverage of local governmental celebrations of the National Day of Prayer.

70. Attached to this affidavit as Exhibit 113 is a true and correct copy of FFRFs' statement of purpose and activities.

71. Attached to this affidavit as Exhibits 104-111 are true and correct copies of a sampling of FFRF objections to the National Day of Prayer.

72. Attached to this affidavit as Exhibit 112 is a true and correct copy of a publication describing the Freedom From Religion Foundation and its Purpose and Accomplishments.

73. Attached to this affidavit as Exhibit 63 are true and correct copies of exemplar articles reporting on President Bush's promotion of prayer, particularly by the NDP Task Force.

74. Attached to this affidavit as Exhibit 50 is a true and correct copy of published description of the National Day of Prayer and its relationship with the NDP Task Force, including

the Task Forces' commitment to the Lausanne Covenant, subscribed to by Fundamentalists and Evangelical Protestants.

75. Attached to this affidavit as Exhibit 114 is a true and correct copy of FFRF's 2008 Year in Review.

76. Attached to this affidavit as Exhibit 57 is a true and correct copy of a statement by the National Prayer Committee regarding the National Day of Prayer, described as "An Act of Congress which encourages Americans to pray for our nation, its people and its leaders."

77. Attached to this affidavit as Exhibit 53 is a true and correct copy of the Judiciary Committee Report in 1952 on National Day of Prayer legislation, and concluding that it would be appropriate if pursuant to the resolution people of the country united in a day of prayer, thus

reaffirming in a dramatic manner the deep religious conviction which has supposedly prevailed throughout the history of the United States.

78. Attached to this affidavit as Exhibit 54 is a true and correct copy of a New York Times article, April 18, 1952, announcing President Truman's signing of the Prayer Day Bill, the purpose of which it to have the public assemble to offer prayers for world peace.

79. Attached to this affidavit as Exhibit 97 is a true and correct copy of an FFRF article noting the increase in the number of Americans that identify with no religion which is the fastest-growing segment of the United States population.

s/Richard L. Bolton
Richard L. Bolton

Subscribed and sworn to before me this
16th day of November 2009.

s/Vickie Hackbarth
Notary Public, State of Wisconsin
My Commission expires: 7/24/11

CERTIFICATE OF SERVICE

I hereby certify that on 11/16/09, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification electronically to all attorneys of record.

s/Lisa E. Hibbard